

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

LEIGHTON TECHNOLOGIES LLC,

Plaintiff,

vs.

OBERTHUR CARD SYSTEMS, S.A. and
OBERTHUR CARD SYSTEMS OF
AMERICA CORPORATION,

Defendants.

OBERTHUR CARD SYSTEMS, S.A. and
OBERTHUR CARD SYSTEMS OF
AMERICA CORPORATION,

Counterclaim Plaintiffs,

vs.

LEIGHTON TECHNOLOGIES LLC,
GENERAL PATENT CORPORATION
INTERNATIONAL, GENERAL PATENT
CORPORATION, and IP HOLDINGS LLC,

Counterclaim Defendants.

04 Civ. 02496 (CM) (LMS)

**DECLARATION OF ROBERT A.
GUTKIN SUBMITTED IN SUPPORT
OF PLAINTIFF LEIGHTON
TECHNOLOGIES LLC'S
OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT OF NON-
INFRINGEMENT**

Exhibits 3-14, 17-21, 25, 27 and 33
Contains Confidential Information
Subject To The Protective Order In This
Case Entered on August 20, 2004

I, Robert A. Gutkin, under penalty of perjury, declare as follows:

I am a partner at Sutherland Asbill & Brennan LLP, and I represent Leighton Technologies LLC, in this case. I submit this Declaration in Support of Plaintiff Leighton Technologies LLC's Opposition to Defendants' Motion to Dismiss for Standing.

1. Attached to this Declaration as Exhibit 1 is a true and correct copy of U.S. Patent No. 5,817,207.

2. Attached to this Declaration as Exhibit 2 is a true and correct copy of U.S. Patent No. 6,214,155.

3. Attached to this Declaration as Exhibit 3 is a true and correct copy of the Stipulation Regarding Accused Products dated November 21, 2006, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

4. Attached to this Declaration as Exhibit 4 is a true and correct copy of exhibit TI-2 of the April 27, 2006 Deposition of Shawn Rogers, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

5. Attached to this Declaration as Exhibit 5 is a true and correct copy of Oberthur’s Production Document Nos. OCS_Z_096803-096807, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

6. Attached to this Declaration as Exhibit 6 is a true and correct copy of pages 1, 29-30 and 38-40 of the February 24, 2006 Deposition of Barry Mosteller, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

7. Attached to this Declaration as Exhibit 7 is a true and correct copy of a picture of Oberthur’s Physical Exhibit numbered OCS_Z_096786, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

8. Attached to this Declaration as Exhibit 8 is a true and correct copy of pages 1, 30-31 and 32-34 of the February 24, 2006 Deposition of Barry Mosteller, is being filed under seal

because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

9. Attached to this Declaration as Exhibit 9 is a true and correct copy of pages 1 and 75 of the February 24, 2006 Deposition of Barry Mosteller, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

10. Attached to this Declaration as Exhibit 10 is a true and correct copy of pages 1 and 78-79 of the February 24, 2006 Deposition of Barry Mosteller, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

11. Attached to this Declaration as Exhibit 11 is a true and correct copy of deposition exhibit 3061 of the February 24, 2006 deposition of Barry Mosteller, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

12. Attached to this Declaration as Exhibit 12 is a true and correct copy of a picture of Oberthur’s Physical Exhibit numbered OCS_Z_096802, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

13. Attached to this Declaration as Exhibit 13 is a true and correct copy of pages 1, 86 and 127-129 of the February 24, 2006 Deposition of Barry Mosteller, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

14. Attached to this Declaration as Exhibit 14 is a true and correct copy of pages 1 and 55-57 of the February 24, 2006 Deposition of Barry Mosteller, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

15. Attached to this Declaration as Exhibit 15 is a true and correct copy of a printout from the Smartrac website.

16. Attached to this Declaration as Exhibit 16 is a true and correct copy of a printout from the Aontec website.

17. Attached to this Declaration as Exhibit 17 is a true and correct copy of pages 1 and 57 of the February 24, 2006 Deposition of Barry Mosteller, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

18. Attached to this Declaration as Exhibit 18 is a true and correct copy of pages 1 and 31 of the February 16, 2006 Deposition of Seamus O’Keefe, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

19. Attached to this Declaration as Exhibit 19 is a true and correct copy of pages 1 and 58-60 of the February 24, 2006 Deposition of Barry Mosteller, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

20. Attached to this Declaration as Exhibit 20 is a true and correct copy of pages 1 and 133 of the February 24, 2006 Deposition of Barry Mosteller, is being filed under seal

because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

21. Attached to this Declaration as Exhibit 21 is a true and correct copy of pages 1 and 93-100 of the February 16, 2006 Deposition of Seamus O’Keefe, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

22. Attached to this Declaration as Exhibit 22 is a true and correct copy of pages 1 and 73 of the February 9, 2005 Markman Hearing.

23. Attached to this Declaration as Exhibit 23 is a true and correct copy of the January 8, 1998 Amendment to App. No. 08/727,789 bates labeled OCS_C_045595-601.

24. Attached to this Declaration as Exhibit 24 is a true and correct copy of pages 1 and 63-64 of the February 9, 2005 Markman Hearing.

25. Attached to this Declaration as Exhibit 25 is a true and correct copy of pages 1 and 134-135 of the February 24, 2006 Deposition of Barry Mosteller, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

26. Attached to this Declaration as Exhibit 26 is a true and correct copy of pages 1 and 39 of the April 4, 2006 Summary Judgment Hearing.

27. Attached to this Declaration as Exhibit 27 is a true and correct copy of pages 1 and 88-90 of the February 24, 2006 Deposition of Barry Mosteller, is being filed under seal because it contains information designated as “Trial Counsel’s Eyes Only” pursuant to the Protective Order entered in this case on August 20, 2004.

28. Attached to this Declaration as Exhibit 28 are true and correct copies of Oberthur's Responses to Interrogatory No. 10.

29. Attached to this Declaration as Exhibit 29 is a true and correct copy of pages 1, 20, 100 and 124 of the February 9, 2005 Markman Hearing.

30. Attached to this Declaration as Exhibit 30 is a true and correct copy of pages 1 and 6 of the February 9, 2005 Markman Hearing.

31. Attached to this Declaration as Exhibit 31 is a true and correct copy of United States Patent No. 4,450,024.

32. Attached to this Declaration as Exhibit 32 is a true and correct copy of pages 1 and 60 of the February 9, 2005 Markman Hearing.

33. Attached to this Declaration as Exhibit 33 is a true and correct copy of Dr. David Everett's Expert Report, is being filed under seal because it contains information designated as "Trial Counsel's Eyes Only" pursuant to the Protective Order entered in this case on August 20, 2004.

I declare under penalty and perjury that the foregoing is true and correct under the laws of the United States.

Dated: January 26, 2007

/s/Robert A. Gutkin
Robert A. Gutkin (Pro hac vice)

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing DECLARATION OF ROBERT A. GUTKIN SUBMITTED IN SUPPORT OF PLAINTIFF LEIGHTON TECHNOLOGIES LLC'S OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT, was served on the following on January 26, 2007 by e-mail and overnight mail:

Edward DeFranco
Kevin Johnson
Mark Baker
Quinn Emanuel Urquhart Oliver & Hedges, LLP
51 Madison Avenue, 22nd Floor
New York, NY 10010

/s/ Robert A. Gutkin